

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JERONE MCDOUGALD,

Plaintiff,

vs.

**Case No.: 2:16-cv-545
JUDGE GEORGE C. SMITH
Magistrate Judge Jolson**

DR. MICHAEL DAVIS, et al.,

Defendants.

ORDER

On April 20, 2018, the United States Magistrate Judge issued a *Report and Recommendation and Order* recommending that Defendant Morgan be dismissed without prejudice because of Plaintiff's failure to effect timely service; Plaintiff's Motion for Summary Judgment be denied; and Defendants' Motion for Summary Judgment be granted. (*See Report and Recommendation and Order*, Doc. 38). The parties were advised of their right to object to the *Report and Recommendation and Order*. This matter is now before the Court on Plaintiff's Objections to the *Report and Recommendation and Order*. (*See* Doc. 39). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's objections present, once again, the issues presented to and considered by the Magistrate Judge in the *Report and Recommendation and Order*. Specifically, Plaintiff continues to argue that Defendants York, Davis, and Warren failed to justify their failure to accommodate him by providing kosher meals. Further, Plaintiff asserts that he only received kosher meals after filing this case, establishing that his First Amendment rights were being violated.

The Court agrees with the Magistrate Judge's conclusions as to all of Plaintiff's claims, and will specifically address Plaintiff's First Amendment claim which Plaintiff raises in his objections. The Magistrate Judge carefully considered Plaintiff's First Amended claim and found that it was within Defendant Davis's discretion to deny Plaintiff's initial request for kosher means. The Sixth Circuit has held that "prison officials should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Flagner v. Wilkinson*, 241 F.3d 475, 481 (6th Cir. 2001). Additionally, since Plaintiff is only seeking to recover monetary damages, the Magistrate Judge was correct in holding that "the Prison Litigation Reform Act ('PLRA') precludes an award of monetary damages for First Amendment claims where an inmate does not suffer a physical injury." (Doc. 38, *Report and Recommendation* at 12) (quoting *Stepler v. Warden, Hocking Corr. Facility*, No. 2:12-cv-1209, 2014 WL 3459880, at *3 (S.D. Ohio July 11, 2014)).

Therefore, for the reasons stated in the *Report and Recommendation and Order*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**.

The *Report and Recommendation and Order*, ECF No. 38, is **ADOPTED** and **AFFIRMED**. Defendant Morgan is hereby dismissed without prejudice because of Plaintiff's failure to effect timely service; Plaintiff's Motion for Summary Judgment is **DENIED**; and Defendants' Motion for Summary Judgment is **GRANTED**.

The Clerk shall remove Documents 28, 31, 38, and 39 from the Court's pending motions list and terminate this case.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT